

State of South Dakota

EIGHTY-FIRST SESSION LEGISLATIVE ASSEMBLY, 2006

664M0159

SENATE BILL NO. 1

Introduced by: Senators Schoenbeck, Abdallah, Bogue, Koskan, and McCracken and
Representatives Hennies, Cutler, Deadrick, Dykstra, Kraus, McCoy,
McLaughlin, Michels, Murschel, O'Brien, Rhoden, Roberts, Rounds, Tornow,
and Willadsen

1 FOR AN ACT ENTITLED, An Act to provide for the mandatory withdrawal of blood or other
2 bodily substances subsequent to arrest for driving while under influence.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-23-10 be amended to read as follows:

5 32-23-10. Any person who operates any vehicle in this state is considered to have given
6 consent to the withdrawal of blood or other bodily substance and chemical analysis of the
7 person's blood, breath, or other bodily substance to determine the amount of alcohol in the
8 person's blood and to determine the presence of marijuana or any controlled drug or substance
9 or any substance ingested, inhaled, or otherwise taken into the body as prohibited by § 22-42-15
10 or any other substance that may render a person incapable of safely driving. The arresting law
11 enforcement officer may, subsequent to the arrest of any operator for a violation of § 32-23-1,
12 require the operator to submit to the withdrawal of blood or other bodily substances as evidence.

13 ~~—The person shall be requested by the officer to submit to the withdrawal of blood or other~~
14 ~~bodily substance for chemical analysis or chemical analysis of the person's breath and shall be~~



1 ~~advised by the officer that:~~

2 ~~— (1) — If the person refuses to submit to the withdrawal or chemical analysis, no withdrawal~~
3 ~~or chemical analysis may be required unless the person has been arrested for a third,~~
4 ~~fourth, or subsequent violation of § 32-23-1, constituting a felony offense under~~
5 ~~§ 32-23-4 or 32-23-4.6; has been arrested for vehicular homicide under § 22-16-41~~
6 ~~or vehicular battery under § 22-16-42, or has been involved in an accident resulting~~
7 ~~in death or serious bodily injury of another person;~~

8 ~~— (2) — If the person refuses to submit to the withdrawal or chemical analysis, the person's~~
9 ~~driver's license shall be revoked for one year, unless pursuant to § 32-23-11.1 the~~
10 ~~person pleads guilty to a violation of § 32-23-1 or 32-23-21, prior to a revocation~~
11 ~~order being issued; and~~

12 ~~— (3) — The person has the right to have a chemical analysis performed by a technician of the~~
13 ~~person's own choosing at the person's own expense, in addition to the test requested~~
14 ~~by the officer.~~